

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

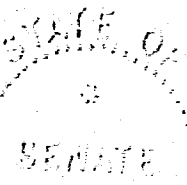
CHAPTER 81

SENATE BILL 1008

AN ACT

AMENDING SECTION 32-2405, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 24, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2412; AMENDING SECTION 32-2459, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 26, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2609; AMENDING SECTIONS 32-2640 AND 32-2641, ARIZONA REVISED STATUTES; RELATING TO PRIVATE INVESTIGATORS AND SECURITY GUARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2405, Arizona Revised Statutes, is amended to
3 read:

4 32-2405. Power and duties of hearing board

5 A. The board shall:

6 1. Submit recommendations to the director on disciplinary actions or
7 the denial of licenses or registrations.

8 2. Annually elect from its membership a chairman and a secretary, who
9 serve at the pleasure of the board.

10 3. DETERMINE GOOD CAUSE EXCEPTIONS PURSUANT TO SECTIONS 32-2412 AND
11 32-2609.

12 4. ADOPT RULES TO ESTABLISH GOOD CAUSE EXCEPTIONS FOR THE ISSUANCE OF
13 LICENSES OR REGISTRATIONS PURSUANT TO THIS CHAPTER AND CHAPTER 26 OF THIS
14 TITLE.

15 5. FURNISH A COPY OF ITS RULES, ON REQUEST, TO ALL APPLICANTS WHO
16 PETITION THE BOARD FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTIONS 32-2459,
17 32-2640 AND 32-2641.

18 B. The board may take and hear evidence, administer oaths and
19 affirmations and compel by subpoena the attendance of witnesses and the
20 production of books, papers, records, documents and other information
21 relating to an investigation or hearing.

22 Sec. 2. Title 32, chapter 24, article 1, Arizona Revised Statutes, is
23 amended by adding section 32-2412, to read:

24 32-2412. Good cause exceptions for felony offenses

25 A. THE BOARD MAY GRANT A GOOD CAUSE EXCEPTION FOR A FELONY OFFENSE IF
26 TEN OR MORE YEARS HAVE PASSED SINCE THE PERSON COMPLETED ALL TERMS OF
27 SENTENCING AND IF THE PERSON SHOWS AT A HEARING TO THE BOARD'S SATISFACTION
28 THAT THE PERSON IS NOT AWAITING TRIAL ON OR HAS NOT BEEN CONVICTED OF
29 COMMITTING ANY OF THE OFFENSES LISTED IN SECTION 41-1758.03, SUBSECTION B.
30 BEFORE GRANTING A GOOD CAUSE EXCEPTION AT A HEARING THE BOARD SHALL CONSIDER
31 ALL OF THE FOLLOWING IN ACCORDANCE WITH BOARD RULE:

32 1. THE EXTENT OF THE PERSON'S CRIMINAL RECORD.

33 2. THE LENGTH OF TIME THAT HAS ELAPSED SINCE THE OFFENSE WAS
34 COMMITTED.

35 3. THE NATURE OF THE OFFENSE.

36 4. EVIDENCE SUPPORTING ANY APPLICABLE MITIGATING CIRCUMSTANCES.

37 5. EVIDENCE SUPPORTING THE DEGREE TO WHICH THE PERSON PARTICIPATED IN
38 THE OFFENSE.

39 6. EVIDENCE SUPPORTING THE EXTENT OF THE PERSON'S REHABILITATION,
40 INCLUDING:

41 (a) COMPLETION OF PROBATION, PAROLE OR COMMUNITY SUPERVISION.

42 (b) WHETHER THE PERSON PAID RESTITUTION OR OTHER COMPENSATION FOR THE
43 OFFENSE.

44 (c) EVIDENCE OF POSITIVE ACTION TO CHANGE CRIMINAL BEHAVIOR, SUCH AS
45 COMPLETION OF A DRUG TREATMENT PROGRAM OR COUNSELING.

(d) PERSONAL REFERENCES ATTESTING TO THE PERSON'S REHABILITATION.

B. IF SEEKING A GOOD CAUSE EXCEPTION, AT LEAST FIVE DAYS BEFORE THE HEARING THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT ANY EVIDENCE THE APPLICANT WILL BE PRESENTING AT THE HEARING.

Sec. 3. Section 32-2459, Arizona Revised Statutes, is amended to read:

32-2459. Grounds for refusal to issue agency license; associate and employee registration and identification; judicial review; good cause exceptions

A. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, the department may deny an agency license or the renewal of an agency license if the applicant:

1. Committed any act that, if committed by a licensee, would be grounds for the probation of a licensee or the suspension or revocation of a license under this chapter.

2. Does not meet the requirements prescribed in section 32-2422.

3. While not licensed under this chapter, committed, or aided and abetted the commission of, any act for which a license is required by this chapter or has acted or attempted to act as a private investigator service or private investigator.

4. Knowingly made a false statement in the application.

5. Has been denied an agency license under this chapter.

6. Has been an associate of an agency that has had a license revoked.

7. Failed to provide adequate verification of required investigative experience.

B. The department may deny the issuance of an identification card to an applicant for an associate or employee registration if the applicant:

1. Fails to meet the qualifications under section 32-2441.

2. Has committed any act that would be grounds for suspension or revocation of registration pursuant to this chapter.

3. Has knowingly made any false statement on the application.

C. The denial of the issuance of an identification card or license under this article shall be in writing and shall describe the basis for the denial. A hearing to contest a denial shall be held in accordance with title 41, chapter 6, article 10.

D. Except as provided in section 41-1092.08, subsection H, final decisions of the director are subject to judicial review pursuant to title 12, chapter 7, article 6.

E. AN APPLICANT MAY PETITION A DENIAL TO THE BOARD FOR A GOOD CAUSE EXCEPTION.

F. IF THE BOARD GRANTED A LICENSEE OR A REGISTRANT A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 32-2412, THE DEPARTMENT MAY NOT DENY THE LICENSEE'S OR THE REGISTRANT'S RENEWAL APPLICATION BASED ON FACTORS ALREADY REVIEWED BY THE BOARD WHEN GRANTING THE GOOD CAUSE EXCEPTION.

1 Sec. 4. Title 32, chapter 26, article 1, Arizona Revised Statutes, is
2 amended by adding section 32-2609, to read:

3 32-2609. Good cause exceptions for felony offenses

4 A. THE BOARD MAY GRANT A GOOD CAUSE EXCEPTION FOR A FELONY OFFENSE IF
5 TEN OR MORE YEARS HAVE PASSED SINCE THE PERSON COMPLETED ALL TERMS OF
6 SENTENCING AND IF THE PERSON SHOWS AT A HEARING TO THE BOARD'S SATISFACTION
7 THAT THE PERSON IS NOT AWAITING TRIAL ON OR HAS NOT BEEN CONVICTED OF
8 COMMITTING ANY OF THE OFFENSES LISTED IN SECTION 41-1758.03, SUBSECTION B.
9 BEFORE GRANTING A GOOD CAUSE EXCEPTION AT A HEARING THE BOARD SHALL CONSIDER
10 ALL OF THE FOLLOWING IN ACCORDANCE WITH BOARD RULE:

- 11 1. THE EXTENT OF THE PERSON'S CRIMINAL RECORD.
- 12 2. THE LENGTH OF TIME THAT HAS ELAPSED SINCE THE OFFENSE WAS
13 COMMITTED.
- 14 3. THE NATURE OF THE OFFENSE.
- 15 4. EVIDENCE SUPPORTING ANY APPLICABLE MITIGATING CIRCUMSTANCES.
- 16 5. EVIDENCE SUPPORTING THE DEGREE TO WHICH THE PERSON PARTICIPATED IN
17 THE OFFENSE.

18 6. EVIDENCE SUPPORTING THE EXTENT OF THE PERSON'S REHABILITATION,
19 INCLUDING:

- 20 (a) COMPLETION OF PROBATION, PAROLE OR COMMUNITY SUPERVISION.
- 21 (b) WHETHER THE PERSON PAID RESTITUTION OR OTHER COMPENSATION FOR THE
22 OFFENSE.
- 23 (c) EVIDENCE OF POSITIVE ACTION TO CHANGE CRIMINAL BEHAVIOR, SUCH AS
24 COMPLETION OF A DRUG TREATMENT PROGRAM OR COUNSELING.
- 25 (d) PERSONAL REFERENCES ATTESTING TO THE PERSON'S REHABILITATION.

26 B. IF SEEKING A GOOD CAUSE EXCEPTION, AT LEAST FIVE DAYS BEFORE THE
27 HEARING THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT ANY EVIDENCE THE
28 APPLICANT WILL BE PRESENTING AT THE HEARING.

29 Sec. 5. Section 32-2640, Arizona Revised Statutes, is amended to read:

30 32-2640. Grounds for refusal to issue or renew an agency
31 license; judicial review; good cause exceptions

32 A. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, the department
33 may deny the issuance or renewal of an agency license if the individual
34 applicant, or, if the applicant is other than an individual, any qualifying
35 party:

- 36 1. Does not meet the requirements prescribed in section 32-2612.
- 37 2. Has committed any act that, if committed by a licensee, would be
38 grounds for the suspension or revocation of a license pursuant to this
39 chapter.
- 40 3. Has been refused a license under this chapter, or had such a
41 license revoked or has been an associate of any applicant or licensee who has
42 been refused a license under this chapter or who has had a license revoked.
- 43 4. While not licensed under this chapter, has committed or aided and
44 abetted the commission of any act for which a license REGISTRATION

1 CERTIFICATE is required by this chapter or has acted, or attempted to act, as
2 a private security guard service or a security guard.

3 5. Has knowingly made any false statement in the application.

4 6. Failed to provide adequate verification of required experience.

5 B. The denial of the issuance of an agency license or identification
6 card under this chapter shall be in writing and shall describe the basis for
7 the denial. The denial notice shall inform the applicant that if the
8 applicant desires a hearing by the board to contest the denial, the applicant
9 shall submit the request in writing to the department within thirty calendar
10 days after service of the denial. Service is complete on the mailing of the
11 denial to the address listed on the application.

12 C. Except as provided in section 41-1092.08, subsection H, final
13 decisions of the director are subject to judicial review pursuant to title
14 12, chapter 7, article 6.

15 D. IF AN APPLICANT IS DENIED AN AGENCY LICENSE, THE APPLICANT MAY
16 PETITION THE BOARD FOR A GOOD CAUSE EXCEPTION.

17 E. IF THE BOARD GRANTED A LICENSEE A GOOD CAUSE EXCEPTION PURSUANT TO
18 SECTION 32-2609, THE DEPARTMENT MAY NOT DENY THE LICENSEE'S RENEWAL
19 APPLICATION BASED ON FACTORS ALREADY REVIEWED BY THE BOARD WHEN GRANTING THE
20 GOOD CAUSE EXCEPTION.

21 Sec. 6. Section 32-2641, Arizona Revised Statutes, is amended to read:

22 32-2641. Grounds for refusal to issue a security guard
23 identification card or registration certificate;
24 judicial review; good cause exceptions

25 A. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, the department
26 may deny the issuance of an identification card to an applicant for a
27 security guard registration certificate or an armed security guard
28 registration certificate if the applicant:

29 1. Does not meet the requirements prescribed in section 32-2622 for
30 the appropriate type of certificate.

31 2. Has committed any act which would be grounds for the suspension or
32 revocation of a security guard registration pursuant to this chapter.

33 3. Has knowingly made any statement which is false in the application.

34 B. If the director determines that an applicant's criminal history
35 contains open arrest information, the director shall:

36 1. Issue a notice to the applicant allowing forty-five days for the
37 applicant to provide documentation concerning the disposition of the arrest
38 or arrests.

39 2. Send to the applicant at the applicant's last known residential
40 address sufficient information to assist the applicant in complying with the
41 director's request under paragraph 1 of this subsection.

42 C. The denial of the issuance of a registration certificate under this
43 article shall be in writing and shall describe the basis for the denial. The
44 denial notice shall inform the applicant that if the applicant desires a
45 hearing by the board to contest the denial the applicant shall submit the

1 request in writing to the department within thirty calendar days after
2 service of the denial notice. Service is complete on the mailing of the
3 denial to the address listed on the application.

4 D. Except as provided in section 41-1092.08, subsection H, final
5 decisions of the director are subject to judicial review pursuant to title
6 12, chapter 7, article 6.

7 E. IF AN APPLICANT IS DENIED A REGISTRATION CERTIFICATE, THE APPLICANT
8 MAY PETITION THE BOARD FOR A GOOD CAUSE EXCEPTION.

9 F. IF THE BOARD GRANTED AN APPLICANT FOR A SECURITY GUARD REGISTRATION
10 CERTIFICATE OR AN ARMED SECURITY GUARD REGISTRATION CERTIFICATE A GOOD CAUSE
11 EXCEPTION PURSUANT TO SECTION 32-2609, THE DEPARTMENT MAY NOT DENY THE
12 PERSON'S RENEWAL APPLICATION BASED ON FACTORS ALREADY REVIEWED BY THE BOARD
13 WHEN GRANTING THE GOOD CAUSE EXCEPTION.

14 Sec. 7. Effective date

15 This act is effective from and after June 30, 2006.

APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

Passed the House April 11, 20 05

by the following vote: 53 Ayes,

4 Nays, 3 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 23, 20 05

by the following vote: 22 Ayes,

4 Nays, 4 Not Voting

[Signature]
President of the Senate

Channing B. Wright
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12th day of April, 20 05

at 12:39 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 18 day of

April, 20 05,

at 1:40 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1008

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 20 05

at 4:42 o'clock P. M.

[Signature]
Secretary of State